

**CITY OF BRAZIL, INDIANA  
ORDINANCE 6-2005**

**AN ORDINANCE ESTABLISHING LIMITS ON SALES OF PRODUCTS  
CONTAINING EPHEDRINE, PSEUDOEPHEDRINE AND  
PHENYLPROPANOLAMINE  
(SPONSORED BY: COUNCILMAN MARTIN BEASLEY, WARD #2)**

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**PURPOSE**

**WHEREAS**, ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine are active ingredients in all over-the-counter products for allergy and congestion, and in addition to their legal uses, ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine are being purchased and misused by some segments of the community to manufacture the illegal substance dextro methamphetamine; and

**WHEREAS**, Southwestern Indiana, generally, and City of Brazil, Indiana, specifically, have become known to narcotics officers and drug enforcement agents for its high incidence of illicit manufacture, sale and use of dextro methamphetamine; and

**WHEREAS**, there is a current and immediate threat to the public health, safety and welfare in that the manufacture, processing, transportation, possession and sales of illicit narcotics and drugs are inherently dangerous, and that the chemicals, compounds, substances, byproducts and wastes associated with the manufacture of illicit narcotics and drugs are both dangerous and injurious to the health, welfare and safety of the residents of City of Brazil, Indiana; and

**WHEREAS**, there has been an increase in the sales, theft and possession of over-the-counter products that contain as an ingredient ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine, as well as other products associated with the manufacture of dextro methamphetamine; and

**WHEREAS**, placing restrictions and controls on the purchase of products containing ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine will facilitate the tracking and eventual capture of dextro methamphetamine manufacturers and improve the effectiveness of law enforcement and the prevention of drug abuse and the crime that results therefrom; and

**WHEREAS**, the City shall require any Persons, as hereinafter defined, who sells any product, on the retail level, containing ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine to apply for a permit, on an annual basis, with the Brazil City Clerk-Treasurer (hereinafter referred to as the "Permittee"); and

**WHEREAS**, the reasonable limitations found in this Ordinance on the quantity of products containing ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, and phenylpropanolamine that may be sold to or purchased by a customer on a single day will assist the County in its effort to combat the insidious criminal methods of illegal methamphetamine manufacturers in the City, and will not unduly restrict legitimate businesses or customers from selling or buying these products.

**NOW, THEREFORE, BE IT ORDAINED** and enacted by the Common Council of the City of Brazil, Indiana that:

## **SECTION ONE. GENERAL PROVISIONS**

Definitions - Except as otherwise provided, for purposes of this Ordinance:

Customer - means any person who purchases or acquires products from any retail store.

Ephedrine- means any drug, substance or compound, whether legal or illegal, that contains ephedrine, pseudoephedrine, ephedrine hydrochloride, pseudoephedrine hydrochloride, pseudoephedrine sulfate, or phenylpropanolamine.

Package- means any bottle, box, blister pack or other container in which products containing Ephedrine are sold.

Permittee- means a Person who has obtained a permit to sell Ephedrine to Customers.

Person- means any person, firm, partnership, association, corporation, company or organization of any kind.

Retail Store – means any single geographic location of any business, company, corporation, person, employee or associate, that sells Ephedrine to any Customer. It does not include any wholesalers engaged in a wholesale transaction.

Sell – means to furnish, give away, exchange, transfer, deliver, surrender, distribute, or supply, whether or not for monetary gain or other consideration.

Wholesaler – means one whose business is the selling of goods in gross to retail stores for purposes of resale.

## **SECTION TWO. PERMITS**

It shall be unlawful for any Person to operate a Retail Store in the City of Brazil that does not possess a valid permit issued by the Brazil City Clerk-Treasurer. Such permit shall be posted in the establishment in a place conspicuous to the public.

- A. No permit is required for a prescription written by a licensed physician and/or a pharmacist providing the drugs for a prescription.
- B. An applicant may apply for a permit, at no cost, by submitting a completed application form to the Brazil City Clerk-Treasurer's Office.
- C. All permits issued by the Brazil City Clerk-Treasurer's Office shall contain the name of the Retail Store; name of the Person to whom the permit is granted; the address of the Retail Store for which the permit is issued; and the inclusive dates the permit is valid, if other than for a calendar year.
- D. A permit issued to a Retail Store shall not be sold, assigned or transferred.
- E. Should any Person fail to obtain a permit, the Person shall be charged a Two-Hundred Fifty Dollar (\$250.00) penalty.

## **SECTION THREE. LIMITATIONS ON THE SALE OR PURCHASE OF EPHEDRINE PRODUCTS**

- 1. Each Permittee shall require from its Customer identification showing he/she is of legal age (18), a picture form of identification and current address. All information obtained on the Customer shall be recorded in an appropriate manner and a copy of the report shall be forwarded to the Brazil City Police Department at the end of each calendar month by the Permittee.
- 2. It is unlawful for any Person or Permittee during a single transaction to sell to a Customer more than two (2) Packages of products containing Ephedrine.
- 3. It is unlawful for any Customer to purchase or acquire more than two (2) Packages of products containing Ephedrine within a seven (7) day period.

## **SECTION FOUR. EXCLUSIONS**

This Ordinance excludes any prescription written by a licensed physician and a pharmacist providing the drugs for a prescription.

**SECTION FIVE. SEPARATE VIOLATIONS OF EACH INCIDENT**

Each offense shall be considered a separate offense and subject to a fine. Each twenty-four (24) hours that a violation occurs will be considered a separate offense and can be cited as such.

**SECTION SIX. PENALTY**

Whoever violates any provision of this Ordinance shall be fined Five Hundred Dollars (\$500). Each day such violation is committed or permitted to continue shall constitute a separate offense.

**SECTION SEVEN. REPEAL OF CONFLICTING ORDINANCES**

All ordinances, or any parts thereof, previously enacted which are in conflict with this Ordinance are hereby specifically repealed.


**SECTION EIGHT. SEVERABILITY**

If any section, version, or part of this Ordinance is adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudicated invalid or unconstitutional.


**SECTION NINE. TIME OF EFFECT**

This ordinance shall be in full force and effect from and after <sup>July 1, 2005</sup> ~~its passage~~, when it is signed by the presiding officer, approved by the Mayor, and published as required by law.

ORDAINED AND ESTABLISHED this 26 day of April, 2005.


  
Thomas Arthur, Mayor of the City of Brazil,  
Indiana

ATTEST:

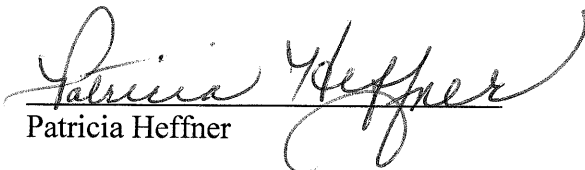
  
Tracy Webster, Clerk-Treasurer of the  
City of Brazil, Indiana


MEMBERS OF THE COMMON COUNCIL

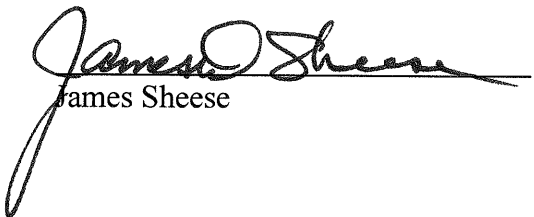
AYES:

  
Martin Beasley

  
A. Ann Bradshaw

  
Patricia Heffner

  
William Lovett

  
James Sheese

NAYS:

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Martin Beasley

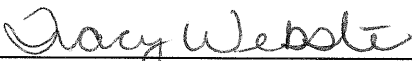
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A. Ann Bradshaw

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William Lovett

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James Sheese

Presented by me to the Mayor of the City of Brazil, Indiana for his approval and signature on this 26 day of April, 2005.

  
Tracy Webster, Clerk-Treasurer of the  
City of Brazil

**APPROVED** and signed by me on the 27 day of April,  
2005, at the hour of 8:34 o'clock 4 .m.

  
Thomas Arthur, Mayor of the City of  
Brazil, Indiana